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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

IN RE: JUUL LABS, INC., MARKETING,  
SALES PRACTICES, AND PRODUCTS  
LIABILITY LITIGATION

Case No. 19-md-02913-WHO

**JOINT CASE MANAGEMENT  
CONFERENCE STATEMENT AND  
PROPOSED AGENDA**

\_\_\_\_\_  
This Document Relates to:

ALL ACTIONS  
\_\_\_\_\_

Pursuant to Civil Local Rule 16-10(d) and the Court’s May 26, 2022 Minute Order (ECF No. 3257), counsel for Defendants Juul Labs, Inc. (“JLI”), Altria,<sup>1</sup> Director Defendants,<sup>2</sup> E-Liquid Defendants,<sup>3</sup> Retailer Defendants,<sup>4</sup> and Distributor Defendants<sup>5</sup> (collectively

\_\_\_\_\_  
<sup>1</sup> “Altria” refers to Altria Group, Inc., and the Altria-affiliated entities named in Plaintiffs’ Consolidated Class Action Complaint and Consolidated Master Complaint (collectively, “Complaints”), *see* ECF Nos. 387, 388.

<sup>2</sup> “Director Defendants” refers to Messrs. James Monsees, Adam Bowen, Nicholas Pritzker, Hoyoung Huh, and Riaz Valani.

<sup>3</sup> “E-Liquid Defendants” refers to Mother Murphy’s Labs, Inc., Alternative Ingredients, Inc., Tobacco Technology, Inc., and Eliquitech, Inc.

<sup>4</sup> “Retailer Defendants” refers to Chevron Corporation, Circle K Stores, Inc., Speedway LLC, 7-Eleven, Inc., Walmart, and Walgreen Co.

<sup>5</sup> “Distributor Defendants” refers to McLane Company, Inc., Eby-Brown Company, LLC, and Core-Mark Holding Company, Inc.

“Defendants”), and Plaintiffs’ Co-Lead Counsel (“Plaintiffs”) (collectively referred to herein as the “Parties”) respectfully provide this Joint Case Management Statement in advance of the Further Case Management Conference scheduled for June 16, 2022.

#### **I. PARTICIPANT INFORMATION**

The June 16, 2022 CMC will proceed by Zoom. Anyone who wishes to attend the conference virtually must log in using the information available at:  
<https://www.cand.uscourts.gov/judges/orrick-william-h-who/>.

#### **II. ISSUES TO BE DISCUSSED BELOW AND PROPOSED AGENDA**

1. Status of Case Filings and Dismissals
2. Case Management Matters
3. Discovery Status
4. ADR Status

#### **III. STATUS OF CASE FILINGS AND DISMISSALS**

As of June 14, 2022, approximately 3,699<sup>6</sup> cases are pending in this MDL, naming 120 defendants. A list of these defendants is attached as **Exhibit A**. To date, 2,695 personal injury cases and 946 government entity cases (including 890 school districts, 26 counties, 2 cities, and 28 tribes) have been filed in this MDL. 765 MDL plaintiffs have voluntarily dismissed their cases (737 personal injury plaintiffs, 26 class plaintiffs, and 2 school districts); 38 cases have been dismissed without prejudice pursuant to CMO No. 8; and 48 other cases are subject to pending motions to dismiss without prejudice that have not yet been ruled upon. Furthermore, 205 case dismissals without prejudice have been converted to dismissals with prejudice pursuant to CMO No. 8.

There are 618 complaints pending in JCCP 5052, which is assigned to Judge David S. Cunningham of the Los Angeles Superior Court as the Coordination Trial Judge. There are 80 government entity cases, including 75 school districts, and 536 personal injury cases brought on

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<sup>6</sup> The numbers in this Statement reflect the Parties’ good faith estimates based on reasonably available information. The Parties will continue to work together to align their data and resolve any inconsistencies.

1 behalf of over 3,203 individual personal injury plaintiffs. There are 26 defendants named in those  
2 JCCP cases.

3 The Parties are also aware of 13 pending cases filed by State Attorneys General  
4 specifically: California, Illinois, Hawai'i, New York, Mississippi, Minnesota, Washington D.C.,  
5 Pennsylvania, New Mexico, Massachusetts, Colorado, and Alaska; in addition, the State Attorney  
6 General of North Carolina filed a case against Director Defendants. Plaintiffs' Liaison Counsel  
7 continue their outreach to various State Attorneys General to discuss cooperation with this MDL.

8 An update on matters of significance (including hearings, schedules, deadlines,  
9 depositions, substantive orders, and trial dates) in Related Actions as defined by the Joint  
10 Coordination Order (CMO 9, ECF No. 572 at 1, 3), is attached hereto as **Exhibit B**.

#### 11 **IV. CASE MANAGEMENT MATTERS**

##### 12 **A. Trial Schedule**

13 The B.B. trial is set to begin on September 12, 2022; the SFUSD trial is set to begin on  
14 November 7, 2022; and the class trial is set to begin on January 9, 2023. The Parties will be  
15 prepared to discuss the overall trial schedule, consistent with the Court's May 26, 2022 Order  
16 (ECF No. 3257).

##### 17 **B. Personal Injury**

##### 18 **1. B.B. Trial**

19 The Parties continue to work on pretrial matters for the B.B. bellwether trial. The Parties  
20 further continue to meet and confer on certain outstanding issues, and propose that the Court  
21 schedule a separate setting to discuss any remaining issues in dispute or for which the parties  
22 would appreciate further guidance. Subject to the Court's preferences and availability, the parties  
23 request the session to occur on or before June 30. The Parties propose submitting their respective  
24 positions in a joint filing 5 days in advance of the scheduled hearing.

##### 25 **2. Other Bellwethers**

26 Plaintiffs and Defendants have each selected five additional personal injury bellwether  
27 nominees for whom fact discovery has commenced, and expect to learn from Brown Greer of the  
28 five randomly selected bellwether nominees shortly.

1           **C.      Government Entities**

2           The parties continue to engage in expert discovery in the government entity bellwether  
3 cases.

4           The parties agree on the provision of an updated census related to unfilled government  
5 entity cases from any law firm with a case filed in the MDL, in order to inform the Court and the  
6 parties of the representativeness of future bellwether trials. The parties are meeting and  
7 conferring regarding potential modifications to the original census, as appropriate.

8           **D.      Class Action**

9           The parties have been meeting and conferring regarding class representatives whose  
10 claims may have been dismissed with prejudice, instead of without prejudice, and related issues.  
11 The parties expect to submit a stipulation to the Court for approval, and will advise the Court  
12 promptly if any disputes arise.

13       **V.     DISCOVERY STATUS**

14           The MDL Plaintiffs are holding weekly calls with JCCP counsel regarding discovery, as  
15 detailed by the Joint Coordination Order (CMO No. 9, ECF No. 572) and the Deposition Protocol  
16 (CMO No. 10, ECF No. 573).

17       **A.     Retailer and Distributor Defendants**

18           **Plaintiffs' Position**

19           The Court's December 21, 2021 Order (ECF No. 2665) required retailer and distributor  
20 defendants to make monthly rolling productions of documents beginning in January 2022, with  
21 substantial completion of production of documents associated with Plaintiffs' First Set of  
22 Interrogatories by May 16, 2022. Chevron, a major JUUL retailer, claims that it has complied  
23 with the Court's Order and the parties' agreement as to search terms and agreed custodians.  
24 Plaintiffs disagree. While most distributor and retailer document review productions are close to  
25 completion, Chevron has only produced 3,763 pages of documents across three productions  
26  
27  
28

1 served on January 28, March 8, and May 16. This is drastically less than the hundreds of  
2 thousands of pages produced by the other retailer and distributor defendants.<sup>7</sup>

3 Throughout the summer and fall of 2021, Chevron claimed it could not produce the files  
4 of Chevron employees who transferred to Extra Mile Convenience Stores (a 2018 joint venture  
5 between Chevron Corp. and Jacksons' Food Stores). Specifically, Chevron claimed that it did not  
6 have access to these employees' files—which allegedly were transferred to the ExtraMile  
7 Convenience Stores with these employees—and that Chevron employee retention policies would  
8 not apply to these employees' business records. After a review of Chevron's productions to date,  
9 Plaintiffs disagree that the current productions are sufficient, because the custodial records of  
10 critical Chevron employees involved with JUUL have not been produced. Only 675 documents  
11 pertaining to custodians identified by Chevron as custodians with documents related to Plaintiffs'  
12 requests have been produced. Further, Chevron has failed to make monthly productions pursuant  
13 to the Court's Order.

14 Plaintiffs seek an Order requiring Chevron to produce the requested custodian files related  
15 to the conduct of its employees prior to the joint venture and thereafter. Plaintiffs also request  
16 Chevron's cooperation in obtaining records from its joint venture partner related to ExtraMile  
17 Convenience Stores which are responsive to Plaintiff's requests. *See*  
18 [https://www.cspdailynews.com/top-202-convenience-stores-2019/extramile-convenience-stores-](https://www.cspdailynews.com/top-202-convenience-stores-2019/extramile-convenience-stores-llc-formerly-chevron-corp)  
19 [llc-formerly-chevron-corp](https://www.cspdailynews.com/top-202-convenience-stores-2019/extramile-convenience-stores-llc-formerly-chevron-corp) (ExtraMile Convenience stores were formerly Chevron Corp. stores  
20 and a joint venture between Chevron and Jacksons Food Stores). Plaintiffs have attempted to  
21 obtain Chevron's compliance over an extended period of time. Conferring has been  
22 unproductive. Accordingly, Plaintiffs believe the issue is ripe for discussion with the Court.

### 23 **Chevron's Position**

24 Chevron believes that bringing this issue to the Court's attention is improper and  
25 premature. Plaintiffs first raised this issue with Chevron on May 17, 2022. Chevron provided a  
26 response on the same day, and invited Plaintiffs to contact them with any additional questions to  
27

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28 <sup>7</sup> Walmart has produced fewer pages (74,606) because of its shorter JUUL retailer timeframe.

1 the extent their concerns had not been addressed. In the month since, Chevron had heard nothing  
2 from Plaintiffs about these concerns. Chevron also advised plaintiffs more than one year ago that  
3 they needed to issue a subpoena to Extra Mile Convenience Stores LLC to obtain the records for  
4 which they now, without any prior notice to Chevron about the orders they seek, appear to make a  
5 very untimely demand. Chevron's position is that Plaintiffs should first meet and confer with  
6 Chevron about their concerns, and only bring them to the Court's attention to the extent they  
7 cannot be resolved independently.

## 8 **VI. ADR STATUS**

9 Pursuant to Civil Local Rule 16-10(d), the Parties report that they continue to confer with  
10 Settlement Master Thomas J. Perrelli and cooperate with his recommendations.

1 Dated: June 14, 2022

Respectfully submitted,

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